


[PPP Home](#) | [Contact Us](#)

PPP Legislation


[PPPs Defined](#) >

[PPP Options](#) >

[PPP Legislation](#) >

[SEP-15 Program](#) >

[PPP Case Studies](#) >

[PPP Agreements](#) >

[Links](#) >

[Resources](#) >

[Events Calendar](#) >

[Glossary](#) >

ANALYSIS FOR STATE OF COLORADO

[« back](#)

Statute:

COLO. REV. STAT. §§ 43-1-1201 to 1209; COLO. REV. STAT. §§ 43-4-801 to 812;
COLO. REV. STAT. §§ 43-3-201 to 43-3-416

Summary:

Allows solicited and unsolicited proposals for PPPs.
 Created a statewide tolling enterprise to finance, build, operate and maintain toll highways. Operated as a government-owned business within the Colorado DOT.
 Provides PPP authority to Colorado DOT for specific projects including turnpikes and HOT lanes.

Key Elements of Colorado's PPP Enabling Legislation

Last Updated: September 2005

No.	Issue:	Short Answer:	Sample Provision:
1.	Does the relevant law allow solicited and unsolicited proposals for PPP projects?	Yes.	§§43-1-1202(b) and (c) and 43-1-1203. §43-4-806(h) for Colorado Toll Enterprise incorporates §43-1-1203 and 1204.
2.	Does the relevant law permit local/state/federal funds to be combined with private sector funds on a PPP project?	Yes.	§43-1-1202 Colorado DOT can grant a "public benefit" which includes a payment for services or any other benefit specifically authorized by law.
3.	Who has rate-setting authority to impose user fees and under what circumstances may they be changed or otherwise reviewed?	Private entity.	§43-4-806(h) subject to agreement with the Colorado Toll Enterprise.
4.	Does the relevant law permit TIFIA loans to be used on PPP projects?	No express provision.	
5.	Is the number of PPP projects limited to only a few "pilot" or "demonstration" projects?	No.	
6.	Are there restrictions concerning the geographic location of PPP projects?	No.	
7.	Are there restrictions concerning the particular mode of transportation eligible to be developed as a PPP project (e.g., truck, passenger auto, freight rail, passenger rail)?	Yes.	§43-1-1202 specifies various ITS-type projects, HOT lanes and turnpike projects
8.	Is there a legal requirement to remove tolls after the repayment of project debt?	No.	

9.	Does the relevant law permit the conversion of existing or partially constructed highways into toll roads?	No.	§43-4-804(4) Colorado Toll Enterprise cannot convert existing free road to a toll road except under 42-4-1012 (conversion of HOV lanes to HOT lanes).
10.	Is there a restriction that prevents the revenues from PPP projects from being diverted to the state's general fund or for other unrelated uses?	Yes.	§43-1-1205 Colorado DOT's share of revenues to be deposited in state highway supplementary fund and used for transportation purposes. Above not applicable to Colorado Toll Enterprise. §43-4-812(4).
11.	Is prior legislative approval required when an individual PPP proposal is received?	No.	
12.	Are there any similar requirements that subject the PPP proposal or the negotiated PPP agreement to a local veto?	No.	§43-4-812(5) requires that the project must conform to the regional transportation plan.
13.	Does the relevant law permit all kinds of procurements for PPP project delivery? These might include, for example, calls for projects, competitive RFQ and RFPs, qualifications review followed by an evaluation of proposer concepts, use of design build, procurements based on financial terms such as return on equity rather than on price, long-term asset leases for some period of up to 60 years or longer from the time operations commence?	Yes.	Similar to what was permitted in the Chicago Skyway transaction, §43-1-1202(1)(d) (II) permits a franchise or long-term lease of up to 99 years. §43-4-812(1) exempts the Colorado Toll Enterprise from the general procurement code.
14.	Are there explicit exemptions/ supplemental procurement authority from the application of the state's general procurement laws?		
15.	Does the relevant law authorize the public sector to grant long-term leases/franchises for the construction, operation and maintenance of toll facilities?	Yes.	
16.	Does the public sector have the authority to issue toll revenue bonds or notes?	Yes.	§43-4-807 permits the Colorado Toll Enterprise to do so.
17.	Does the public sector have the authority to form nonprofits and let them issue debt on behalf of a public agency?	Yes.	§43-4-806(q).
18.	Does the relevant public agency have the authority to hire its own technical and legal consultants?	Yes.	§43-4-806(j).
19.	Does the relevant law permit the public sector to make payments to unsuccessful bidders for work product contained in their proposals?	No express provision.	
20.	Can the agency charge application fees to offset its proposal review costs?	No express provision.	

21.	Does the relevant law allow adequate time for the preparation, submission and evaluation of competitive proposals? Note that the agency should have the authority to establish these deadlines on a case-by-case basis depending on the complexity and scope of the initial proposal or other factors that might promote competition (e.g., more review time during holiday periods).	Yes.	§43-1-1203(6) requires "at least" 14 days notice. No restriction on providing more time.
22.	Is the public sector required to maintain comparable non-toll routes when it establishes new toll roads?	No.	
23.	Are there any non-compete clause prohibitions?	No.	
24.	Is the authority to enter into PPPs restricted to the state DOT or state turnpike authority or may regional or local entities also do so?	Yes.	Restricted to Colorado DOT and Colorado Toll Enterprise.
25.	Does the relevant law specify evaluation criteria for PPP proposals received under a given procurement approach?	Yes.	§43-1-1203(4) sets forth the evaluation criteria for unsolicited proposals.
26.	Does the relevant law specify the structure and participants for the review process involving PPP proposals?	No.	
27.	Does the relevant law protect the confidentiality of PPP proposals and any related negotiations in the period prior to execution of the PPP agreement?	No express provision.	
28.	Does the relevant law provide for the ability of the public sector to outsource long-term operations and maintenance and other asset management duties to the private sector?	Yes.	§43-4-806(h)(II) expressly provides for operation and maintenance services.

[back to top](#)

PPPS Defined | PPP Options | PPP Legislation | SEP-15 Program | PPP Case Studies | Links | Resources
Events Calendar | Contact Us | Glossary

[FHWA Home](#) | [Feedback](#)

FHWA

United States Department of Transportation - **Federal Highway Administration**